

ADAMS, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LELAND WOODS,)	CASE NO. 1:06CV0477
)	
Petitioner,)	
)	JUDGE JOHN R. ADAMS
v.)	
)	<u>MEMORANDUM OF OPINION</u>
STUART HUDSON, Warden,)	<u>AND ORDER</u>
)	[RESOLVING DOC. 10]
Respondent.)	
)	

On March 2, 2006, petitioner *pro se* Leland Woods filed a Motion to File Second Petition pursuant to 28 U.S.C. § 2244 (Doc. 1). Petitioner attached a proposed second petition for a writ of habeas corpus under 28 U.S.C. § 2254 to the motion. Woods is incarcerated in an Ohio penal institution, having been convicted of rape, gross sexual imposition (8 counts) and kidnapping on March 31, 2003.

On September 23, 2005, the petitioner filed an earlier petition for a writ of habeas corpus under 28 U.S.C. § 2254 in Case No. 1:05CV2249. On November 21, 2005, this Court dismissed the petition because Woods had not shown any cause or prejudice to excuse his failure to raise his arguments in the state courts. *Riggins v. McMackin*, 935 F.2d 790, 793 (6th Cir. 1991) (citing *Murray v Carrier*, 477 U.S. 478, 488 (1986)); *see also, Coleman v. Thompson*, 501 U.S. 722, 735 n.1 (1990). Consequently, the proposed petition attached to the motion filed on March 2, 2006, represents a successive petition seeking relief under the provisions of 28 U.S.C. § 2254.

The Court referred the case above-entitled case to Magistrate Judge Nancy A. Vecciarelli for preparation of a report and recommendation pursuant to 28 U.S.C. § 636 and Local

Rule 72.2(b)(2). The magistrate judge submitted a Report & Recommendation (Doc. 9) recommending that the instant petition be transferred to the Sixth Circuit. Petitioner filed objections to this recommendation (Doc. 10).

The Court has reviewed the report and recommendation of the Magistrate Judge, *de novo*. The Court finds that the report and recommendation is well-supported and that the petitioner's objections are without merit. Therefore, the report and recommendation of the Magistrate Judge is hereby ADOPTED and the petitioner's objections are OVERRULED. The Court will file a separate order directing the Clerk of Court to transfer the motion filed on March 2, 2006, to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631 and *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) ("when a prisoner has sought § 2244(b)(3) permission from the district court, or when a second or successive petition for habeas corpus relief . . . is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631").

IT IS SO ORDERED.

June 6, 2006
Date

/s/ John R. Adams
John R. Adams
U.S. District Judge